

## INTERFERENCE DIGEST

Interference No. 105,599

Paper No.

Name: Se-Hwan Son et al.

Serial No.: 10/798,584

Patent No.

Title: Electronic device comprising organic compound having p-type semiconducting characteristics

Filed: 03/10/04

Interference with Ueno et al.

### DECISION ON MOTIONS

Administrative Patent Judge, \_\_\_\_\_ Dated, \_\_\_\_\_

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### FINAL DECISION

Board of Patent Appeals and Interferences, \_\_\_\_\_ Dated, \_\_\_\_\_

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Court, \_\_\_\_\_ Dated, \_\_\_\_\_

### REMARKS

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This should be placed in each application or patent involved in interference in addition to the interference letters.

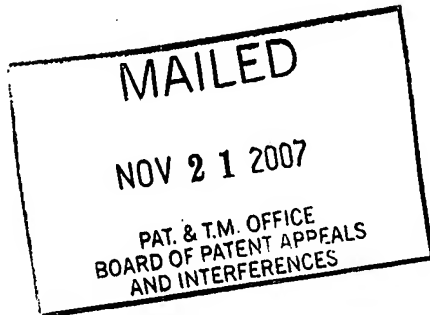


# UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES  
BOX INTERFERENCE, WASHINGTON, D.C. 20231

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Filed by: Judge Fred E. McKelvey  
Telephone: 571-272-4683  
Facsimile: 571-273-0042



Applicants: SON  
Application No.: 10/798,584  
Filed: 03/10/04  
For: Electronic device comprising organic compound  
having p-type semiconducting characteristics

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,599.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

/FRED E. McKELVEY/  
Administrative Patent Judge

BoxInterferences@uspto.gov  
Telephone: 571-272-4683

Paper 1  
Entered: 21 November 2007

UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES

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Patent Interference 105,599 McK  
Technology Center 1700

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SE-HWAN SON, OK-HEE KIM, SEOK-HEE YOON,  
KONG-KYEOM KIM, YOUN-GU LEE and JAE SOON BAE

Application 10/798,584,  
US Patent Publication 2004/0169175 A1  
Junior Party,

v.

KAZUNORI UENO, AKIHIRO SENOO,  
and SEIJI MASHIMO,

Patent 6,436,559 B1,  
Senior Party.

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**DECLARATION**

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**Part A**  
**Declaration of Interference**

An interference is declared between the above-identified parties.  
35 U.S.C. § 135(a); 37 CFR § 41.203(b).

Details of the application, patent, count and claims designated as  
corresponding or as not corresponding<sup>1</sup> to the counts appear in Parts E and F  
of this DECLARATION.

**Part B**  
**Judge Managing the Interference**

Senior Administrative Patent Judge Fred E. McKelvey has been  
designated to manage the interference. 37 CFR § 41.104(a).

**Part C**  
**Standing Order**

A Trial Division STANDING ORDER (3 Jan. 2006) (Paper 2)  
accompanies this DECLARATION.

The STANDING ORDER applies to this interference, including the  
provisions related to Electronic Filing. See ¶ 105, pages 17-20.

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<sup>1</sup> A claim of an involved application or involved patent which is *not*  
designated as corresponding to *any* count is not "involved" in the  
interference within the meaning of 35 U.S.C. § 135(a).

1 **Part D**  
2 **Initial Conference Call and Motions Lists**  
3

4 Conference Call

5 A conference call to discuss the interference is set for:

6 **2:00 p.m. (1400 hours Eastern Time) on 17 January 2008.**

7 The Board will initiate the conference call.

8  
9 Motions Lists

10 On or before:

11 **Noon (1200 hours Eastern time) on 10 January 2008,**

12 each party shall file, and on or before:

13 **5:00 p.m. (1700 hours Eastern time) on 10 January 2008,**

14 each party shall serve a notice stating the relief the party requests, *i.e.*, a  
15 motions list including motions the party seeks authorization to file. 37 CFR  
16 § 41.120(a); STANDING ORDER ¶ 204 (Paper 2, page 58).

17 The default procedure for filing and serving motions lists is that  
18 motions lists are to be *filed* before being *served*.

19 By filing before service, one party will not have access to an  
20 opponent's motions list prior to the filing of the party's motions list.

21 Nevertheless, the parties may mutually agree to discuss and serve  
22 motions lists at any time prior to the date and time motions lists are due.

23 The following shall be included in motions lists.

24 (1) Proposed motion for benefit (*i.e.*, to be accorded an  
25 earlier constructive reduction to practice) must identify the application(s) for  
26 which benefit will be sought.

1                   (2) Proposed motion to attack benefit must identify the  
2 application(s) to be attacked.

3                   (3) Proposed motion seeking judgment against an opponent  
4 based on alleged unpatentability must identify the statutory basis for the  
5 alleged unpatentability and:

6                           (a) if based on prior art, identify the prior art;

7                           (b) if based on the first paragraph of 35 U.S.C. § 112,  
8 (i) identify whether written description, enablement or best most will be the  
9 basis for the motion, and (ii) briefly identify the basis for any alleged  
10 unpatentability;

11                           (c) if based on an alleged failure to comply with  
12 35 U.S.C. § 135(b), briefly identify the reason;

13                           (d) if based on the second paragraph of 35 U.S.C.  
14 § 112, identify the limitation which is believed to be indefinite.

15                   (4) Proposed motion based on no interference-in-fact shall  
16 briefly identify the reason no interference-in-fact is believed to exist.

17                   (5) Proposed motion to designate additional claims as  
18 corresponding to a count or as not corresponding to a count shall identify the  
19 claims involved.

20                   (6) Proposed motion to add or substitute a new count shall  
21 explain why the added or substitute count is necessary.

22           A motions list shall not contain any "reservation clause" whereby a  
23 party purports to reserve a right to file additional motions. Additional  
24 motions are those authorized by the Board consistent with the rules.

25           A sample schedule for taking action during the motions phase of the  
26 interference appears as Form 2 (page 69) of the STANDING ORDER.

1           Counsel are encouraged to discuss the schedule prior to the  
2 conference and agree to on times for taking action generally consistent with  
3 the sample schedule.

4           A typical motions phase last about eight (8) months.

5           The parties should be prepared at the conference to justify any request  
6 for shorter or longer time periods.

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**Part E**

**Identification of the Parties  
Assignment of Exhibit Numbers  
Initiating Settlement Discussions**

Junior Party

Inventors:	Se-Hwan Son, South Korea Ok-Hee Kim, South Korea Seok-Hee Yoon, South Korea Kong-Kyeom Kim, South Korea Youn-Gu Lee, South Korea Jae-Soon Bae, South Korea
Application:	Application 10/798,584 filed 10 March 2004 US Publication 2004/0169175 A1 published 02 September 2004
Title:	Electronic device comprising organic compound having p-type semiconducting characteristics
Real party in interest:	LG Chemical Co., Ltd.



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Real party in interest: Canon Kabushiki Kaisha

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Board: Exhibit Numbers 3001-3999.

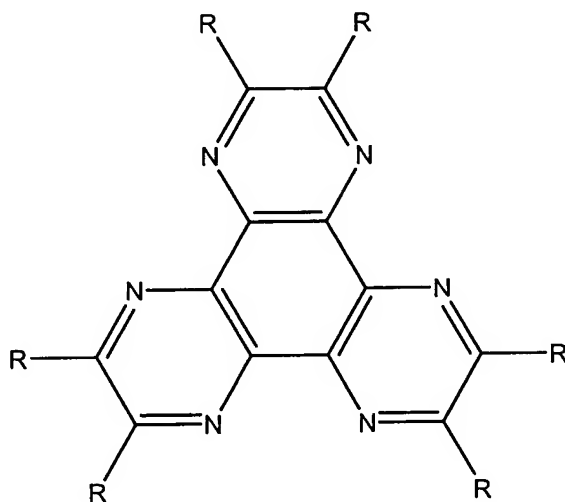
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24 The senior party is responsible for initiating settlement discussions  
25 required by the STANDING ORDER.

**Part F**  
**Count and Claims of the Parties**

**Count 1**

An organic light-emitting device comprising one or more layers interposed between an anode and a cathode, wherein one or more layers comprise an organic compound represented by the formula:



wherein each R is independently or simultaneously selected from the group consisting of (1) hydrogen atom, (2) phenyl, and (3) alkyl having 1 to 8 carbon atoms.

The claims of the parties are:

Son: 1-4, 6-7, 9-16 and 18-20

Ueno: 1-19

The claims that correspond to Count 1 are:

Son: 1-4, 9-16 and 18-20

Ueno: 1 and 16-19

1           The claims that do not correspond to Count 1 are:

2  
3           Son:           6-7

4  
5           Ueno:         2-15  
6

7                   Observations concerning the interference

8           Count 1 has been designed to capture the common subject matter  
9 claimed by the parties. Ueno describes preferred fused ring structures,  
10 including tripyrazinocyclohexanes. Col. 3:46 *et seq.* Ueno compound 10  
11 (col. 6) is a compound where all R's are simultaneously hydrogen. Ueno  
12 compound 4 (col. 4) is a compound where all R's are simultaneously alkyl  
13 with one carbon atom, i.e., methyl ( $\text{---CH}_3$ ). Ueno compound 5 (col. 4) is a  
14 compound where all R's are simultaneously phenyl. Ueno compound 6 (col.  
15 5) is a compound where some R's are methyl and other R's are phenyl (thus  
16 representative of the "independently" language of the count).

17          Son claims 6-7 have not been designated as corresponding to the  
18 count because it is not apparent that the subgenus set out in the count would  
19 render obvious the subgenus covered by Son claims 6-7. One item for  
20 discussion at the conference call should be whether Son claims 6-7 should  
21 be restricted out (35 U.S.C. § 121) and made the subject of a divisional  
22 application. In the event Son prevails in the interference, is it not apparent  
23 why Son should not get a windfall patent term adjustment for claims 6-7  
24 if they are not going to be involved in the interference.

25          At the conference call, Son should be prepared to discuss how it, as  
26 junior party, will prevail in the interference. *Cf.* 37 C.F.R. § 41.202(d).

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Benefit for the purpose of priority

The parties are accorded an earlier constructive reduction to practice  
(i.e., benefit for the purpose of priority) of the following applications:<sup>3</sup>

Son:	Application 09/914,731
	filed 30 August 2001
	now U.S. Patent 6,720,573
	issued 13 April 2004
	PCT/KR00/01537
	filed 27 December 2000
Ueno:	None.

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<sup>3</sup> Son also claims priority of (1) South Korean patent application 2000-82085, filed 26 December 2000 and (2) South Korean patent application 1999-067746, filed 31 December 1999. Ueno claims priority of Japanese patent application 11-322820, filed 12 November 1999. If a party wants to be accorded benefit for the purpose of priority of these applications, the party should list a motion for benefit in the motions list. While the Examiner in a Form PTO-850 accorded benefit, the count adopted by the Board is considerably narrower than the count proposed by the Examiner and therefore benefit is not accorded at this time. The benefit which has been accorded is based on an assumption that the Son benefit applications are essentially identical in disclosure with the involved Son application.

**Part G**  
**Heading to be Used on Papers**

The following heading shall be used on all papers filed in this  
interference [STANDING ORDER ¶ 106.11 (Paper 2, page 20)].

Filed by: [name of party] Paper \_  
[Name of attorney] Date filed: [enter date emailed to Board]  
[Email address of attorney]  
[Telephone number of attorney]

Patent Interference 105,599 McK  
Technology Center 1700

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SE-HWAN SON, OK-HEE KIM, SEOK-HEE YOON,  
KONG-KYEOM KIM, YOUN-GU LEE and JAE SOON BAE

Application 10/798,584,  
US Patent Publication 2004/0169175 A1  
Junior Party,

v.

KAZUNORI UENO, AKIHIRO SENOO,  
and SEIJI MASHIMO,

Patent 6,436,559 B1,  
Senior Party.

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Title of Paper, *e.g.*, SON SUBSTANTIVE MOTION 1

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**Part H**  
**Order Form for Requesting File Copies**

When requesting file copies, a party shall use STANDING ORDER Form 4 (page 71).

Use of form 4 will expedite processing of any request.

a party should attach to any request for file copies a photocopy of Part E of this DECLARATION with a hand-drawn circle around the patent and application files for which a copy of a file wrapper is requested.

The parties are advised that a single order for file copies may be filled by the Office of Public Records at more than one time. STANDING ORDER ¶ 109.2 (Paper 2, pages 25-27).

**Part I**  
**Required Paragraph of Affidavits and Declarations**

The Board has experienced cases in which a witness has belatedly advanced reasons why the witness would be unable to appear for cross examination at a reasonable time and place in the United States.

Consequently, to prevent surprise and hardship to the party relying on the testimony of a witness, the following paragraph must be included on the signature page of all affidavits (including declarations) filed in this case. STANDING ORDER ¶ 157.2 (Paper 2, pages 52-53).

In signing affidavit (declaration), I understand that the affidavit (declaration) will be filed as evidence in a contested case before the Board of Patent Appeals and Interferences of the United States Patent and Trademark Office. I also acknowledge that I may be subject to cross examination in the case and that cross

1 examination will take place within the United States. If cross  
2 examination is required of me, I will appear for cross  
3 examination within the United States during the time allotted  
4 for cross examination.  
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9 /s/ Fred E. McKelvey )  
10 FRED E. McKELVEY )  
11 *Senior Administrative Patent Judge* )  
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14 Entered at:  
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16 Kailua, HI  
17 21 November 2007

1 cc (via Federal Express):  
2  
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4 (real party in interest LG Chemical Co., Ltd.)  
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